BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of	)	
Connect America Fund	)	WC Docket No. 10-90
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
High-Cost Universal Service Support	)	WC Docket No. 05-337
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
Lifeline and Link-Up	)	WC Docket No. 03-109

NOTICE OF INQUIRY AND NOTICE OF PROPOSED RULEMAKING

Reply Comments of the Wyoming Public Service Commission

May 23, 2011

SUMMARY

As the FCC undertakes the matters set forth in the NPRM, it is critical for the FCC to take into account the successful efforts of early adopter states in implementing access reform, disaggregating support, achieving cost-based pricing of essential telecommunications services, and implementing state universal service funds. We do not agree with diluting the carrier of last resort responsibilities of carriers that receive universal service support. To get a meaningful and accurate picture of support requirements, cost modeling should be done at a granular level in sparsely populated high-cost rural areas. Averaging costs over larger areas masks the needs.

Fundamental universal service reform principles of promoting reasonably comparable rural and urban rates and service quality are important to successfully reforming universal service. The Telecommunications Act of 1996 was a handshake and a promise that there would be increased benefits of competition *throughout the nation* and consumers in high-cost rural areas would not be left out. Not everybody understands or accepts this mandate. Several initial comments by other parties take an insular and narrow-minded view of the cumulative net contributions by states. We encourage the FCC to advance the interests of all consumers as it considers the matters it has undertaken, and not leave behind high-cost, rural consumers in sparsely populated underserved and unserved areas.

We support reform that promotes efficiency, and we think the FCC should continue the cooperative working partnership with the states that has successfully brought the nation's telecommunications industry so far forward since 1996. Maintaining a responsible cooperative federal-state partnership leverages the strengths of both partners and is essential to effective implementation of meaningful reforms.

INTRODUCTION

The Wyoming Public Service Commission (WyPSC) hereby submits reply comments in the above-captioned matters. We filed initial comments on April 18, 2011. Our reply comments are submitted in response to initial comments filed by other parties.

Wyoming has done its work when it comes to preservation and advancement of universal service. Wyoming has rebalanced rates, making local exchange rates cost-based with almost all residential and business lines at parity and reducing implicit subsidies in switched access charges. Wyoming has had statutes and rules for administering a state universal service fund since 1996. All federal support is credited to customer bills. Wyoming has embraced local competition.

Wyoming presents unique challenges to universal service. The economics of universal service in Wyoming is typified by very high-costs driven in large part by a small population that is widely distributed geographically. According to the 2010 United States Census, Wyoming is ranked second lowest in population density and lowest in population. [1]

[1] WyPSC initial comments, April 18, 2011, page 3.

COMMENTS

STATE EFFORT

There is a surprisingly common misunderstanding that Wyoming has not undertaken access reform. We do not know the source of this misinformation, but AT&T[2] and NASUCA[3] are both on record incorrectly stating that there has not been any access charge reform in Wyoming. On December 7, 2010, the WyPSC and the Wyoming Telecommunications Association (WyTA) filed an ex parte letter setting forth the following clarification:

> In fact, Wyoming's intrastate access charges have been decreasing through rate rebalancing efforts in Wyoming since the passage of *The 1995 Wyoming Telecommunications Act* and the subsequent establishment of the Wyoming Universal Service Fund (WyUSF). Most recently, the Wyoming Legislature mandated, via a bill signed into law in 2007, that "noncompetitive switched access shall not be priced above three cents ($.03) per minute after January 1, 2010." (W.S. § 37-15-203(j)).[4] Thus, with the exception of one carrier,[5] no LEC in Wyoming is authorized to charge originating or terminating intrastate switched access rates above three cents per minute.

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[2] AT&T provided information about Wyoming access charge reform in an October 22, 2010, *ex parte* in CC Docket No. 01-92, Developing a Unified Intercarrier Compensation Regime; WC Docket No. 05-337, High Cost Universal Service Support; GN Docket No. 09-51A National Broadband Plan for Our Future.

[3] "According to the AT&T summary, Vermont, New Hampshire, Delaware, Maryland, South Carolina, Alabama, Louisiana, Arkansas, Oklahoma, Colorado, Utah, Wyoming, South Dakota, North Dakota, Montana, and Idaho have undertaken no access charge reform actions." NASUCA comments, footnote 215.

[4] The statute allows a limited exemption to this mandate, specifically "[t]he commission may authorize noncompetitive switched access prices above three cents ($.03) per minute for an additional transition period not to exceed two (2) years ending January 1, 2012, only upon a showing that access prices are supported by a current total long-run incremental cost study as defined by W.S. § 37-15-103(a)(xiii) based upon data after January 1, 2008." Only one LEC, Dubois Telephone Exchange, filed for, and received, the temporary exemption.

[5] The statute allows a limited exemption to this mandate, specifically "[t]he commission may authorize noncompetitive switched access prices above three cents ($.03) per minute for an additional transition period not to exceed two (2) years ending January 1, 2012, only upon a showing that access prices are supported by a current total

While access rates have been decreasing in Wyoming, local service rates have simultaneously been increasing. The attached excerpt from the WyPSC's 2010 Telecommunications Report shows the decreases in switched access rates and the increases in local services rates for each Wyoming ILEC from 1995 to 2010. The WyUSF is in place so that no customer in the state pays more than 130% of the statewide weighted average price for local service.

Wyoming has a long history of access charge reform and we are disappointed by AT&T's unfounded assertion that Wyoming has not undertaken any reform. We had hoped our December 7, 2010, letter might have set the record straight.

We support the notion that states need to make diligent efforts to support universal service. The FCC seeks comment on whether Connect America Fund (CAF) support should be based on states' progress on access charge reform, establishment of an intrastate high-cost universal service fund, or implementation of a broadband support mechanism. The Florida PSC opposes conditioning CAF support as proposed because it fails to recognize the unique circumstances of individual states. For example, the Florida PSC explains that it does not have explicit legislative authority to address intrastate access charge reform and contends that such unfortunate conditions may undermine realization of the FCC's broadband deployment goals by making funds unavailable to some areas of need. We understand the context of this argument, but now is the time to reform universal service policy. The longstanding reluctance of some state legislatures to make conforming changes to their statutory frameworks and embrace access charge reform may be an indication of how they will address broadband initiatives.

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long-run incremental cost study as defined by W.S. § 37-15-103(a)(xiii) based upon data after January 1, 2008." Only one LEC, Dubois Telephone Exchange, filed for, and received, the temporary exemption.

CARRIER OF LAST RESORT

AT&T says the POTS business model is in "irreversible decline" and that incumbent common carriers of last resort will lose existing access and universal service revenues, concluding from this that it would thus be "infeasible for them to continue providing legacy telecommunications services in many high-cost areas." AT&T says this is not cause for "lamentation". The WyPSC disagrees. Discontinuing legacy service in high-cost areas *is* cause for great concern because, while AT&T envisions next-generation all-IP communications as the replacement. The WyPSC believes, given our experience with such matters, that next-generation providers touting all-IP replacement services will find the economics of providing this service in sparsely populated, high-cost rural areas of Wyoming a difficult or impossible business case, and such service will be deployed slowly, perhaps not arriving for many years. AT&T's argument is at once specious and self serving.

We agree with CenturyLink that the CAF should support one wireline broadband provider in each support area, enabling the FCC to capitalize on the significant infrastructure investments that have already been made. This could also accommodate continued application of carrier of last resort principles.

We further agree with CenturyLink that special attention must be paid to providers that are carriers of last resort in high-cost areas because there are still "significant" pockets of rural customers who do not have access to broadband today.

AT&T says "*All* carriers should be permitted to make their own business decisions regarding the services they provide and the customers they serve." This is essentially saying supplement our income stream and we will provide the services we choose where and to whom we want. The WyPSC disagrees with AT&T and recommends that the FCC maintain rules requiring carriers receiving federal universal service support to provide service upon request to any eligible customer within that carrier's designated service area pursuant to §§ 214 and 254 of the Telecommunications Act of 1996. As regulators, both the FCC and the WyPSC are charged with perceiving and advancing the public interest. This will, in all probability, require continuing to connect some customers located in remote rural areas to the PSTN with "legacy" services. AT&T apparently sees this as fettering its business model as it seeks to provide its vision of next-generation telecommunications technology – to some, but not all – customers. In reality, providing access to telecommunications as a carrier of last resort is no more than one of the most fundamental obligations of companies serving the public in a regulated business. It is what federal universal service support was intended to enable and it should not be abandoned at the real risk of the creation of communications deserts in rural regions.

COST MODEL BASED ON CENSUS-BLOCK DATA

We agree with CenturyLink that the FCC should identify areas where it is not economically feasible to deploy and operate broadband networks today, given current levels of federal support. We also agree with CenturyLink that the CAF should target support to smaller and more specific geographical areas, rather than averaging costs over larger areas. We know where underserved areas are in Wyoming. With local knowledge to draw upon, targeting support through truly granular analysis will help to insure all consumers enjoy the benefits of broadband universal service.

AT&T recommends that the FCC adopt a cost model that identifies the places that are most expensive to serve on a census-block basis. On the face of it, this seems like a reasonable approach. However, the FCC's broadband business case gap analysis and cost models, even sometimes at the census-block level, lack the fine focus to properly identify extremely high-cost, sparsely populated areas in Wyoming. Please see our June 12, 2010, comments responding to the FCC's April 21, 2010, NOI and NPRM concerning the Connect America Fund, A National Broadband Plan for Our Future, and High-Cost Universal Service Support (the Connect America Comments).[6]

AN OVERLY NARROW VIEW OF UNIVERSAL SERVICE FUNDING

TARGETING SUPPORT

We agree with the Florida PSC that support for the FCC's proposals should be conditioned on retargeting reclaimed support from other programs and not increasing the overall size of the fund. Targeting support helps to align support with high-cost areas while at the same time addressing cream-skimming and competition.

EFFICIENCY

In initial comments, the Florida PSC supports increased incentives for carriers to operate efficiently. We agree.

The Florida PSC also supports elimination of: funding for carriers with more than 200,000 lines; a safety net additive; LSS; and the recovery of corporate operations expenses.

There are no carriers with more than 200,000 lines in Wyoming. However, the Florida PSC's recommendation in unclear on a critical point. If the comment can be read as advocating the elimination of support for carriers with more than 200,000 lines in more than one state, then Florida's proposal would pose a serious problem for Wyoming. CenturyLink, our largest carrier,

[6] WC Docket No. 10-90, GN Docket No. 09-51, and WC Docket No. 05-337.

has well over 200,000 lines across its multistate territory. We do not agree that CenturyLink should be denied support in Wyoming because it serves more than 200,000 lines. CenturyLink serves numerous high-cost, very rural areas in Wyoming and will require federal support to enable reasonable comparability of rural/urban rates and service quality. This again demonstrates the perils of a simple solution to a complex problem.

We agree with the Michigan PSC that the FCC should set end goals and timelines for all types of intercarrier compensation, including intrastate access. As the Michigan PSC points out, states that do not act within that timeframe would be subject to FCC action to reform that particular state's intrastate access rates. We also agree with the Michigan PSC that states should retain the freedom to set their own path toward that goal, provided they follow the FCC's timeline.

Eliminating the safety net additive and LSS support requires consideration of adequate replacement support in Wyoming in order to provide for rural/urban comparability. Eliminating recovery of corporate operations expenses would be very detrimental to Wyoming carriers. Several of Wyoming's rural carriers are very small and would not be able to operate without support for corporate operations expenses. Given the demonstrated aversion of larger carriers, such as AT&T, to serving in these smaller markets, this type of support is needed to guard against the collapse of portions of the PSTN.

PUBLIC INTEREST

The Florida PSC supports a cap of $250 per month per line support, absent a compelling demonstration that additional support is in the public interest. We believe the Florida PSC's suggested cap may have merit -- but only with the qualification set out below. **TABLE 1** illustrates estimated support per line per month for our high-cost rural carriers:

Table 1
Total Federal High Cost Universal Service Payments

		2006	2007	2008	2009	2010	2009 Lines	Monthly 2010 Support/2009 Lines
1	CHUGWATER TEL CO	322,196	285,911	299,552	312,490	302,322	172	$146
2	TRI COUNTY TEL ASSN	6,424,462	7,018,207	7,665,604	7,462,548	7,548,858	5,609	$112
3	SILVER STAR TEL - WY	2,373,002	2,648,971	2,775,359	2,974,340	3,056,472	2,713	$94
4	DUBOIS TEL EXCHANGE	1,995,430	2,379,352	2,355,917	2,383,757	2,301,720	2,385	$80
5	RANGE TEL COOP - WY	6,817,044	7,413,180	7,212,592	8,147,335	8,342,247	15,757	$44
6	ALL WEST COMM - WY	193,293	96,346	74,498	38,824	144,282	308	$39
7	UNION TELEPHONE CO	5,547,418	4,346,572	3,836,372	1,499,962	2,708,082	6,047	$37
8	UTC OF THE WEST-WY	1,370,751	1,198,635	1,215,230	809,583	944,982	5,344	$15
9	CENTURYTEL OF WY.	737,300	929,098	990,776	1,019,416	912,118	5,714	$13
10	QWEST CORP-WY	13,104,496	12,301,125	11,330,655	10,464,045	11,325,547	151,316	$6
11	ADVANCED COMMUNICATIONS TECHNOLOGY, INC.	17,653	18,453	36,256	27,743	42,390		
12	GOLD STAR COMMUNICATIONS, LLC	0	0	0	419,035	2,269,802		
13	SILVER STAR TEL - WY CLEC	23,858	22,194	36,040	47,807	64,170		
14	UNION TELEPHONE CO. DBA UNION CELLULAR	7,825,656	7,842,192	6,413,029	3,974,218	6,738,242		
15	WESTERN WIRELESS	7,527,128	7,774,149	9,663,619	9,041,993	9,207,822		
16	WWC HOLDING CO., DBA CELLULAR ONE	1,820,826	1,950,963	2,202,763	2,117,053	2,633,676		
	TOTAL WYOMING	**56,100,513**	**56,225,348**	**56,108,262**	**50,740,149**	**58,542,730**		

Source: Federal-State Joint Board on Universal Service, Universal Service Fund Monitoring Report, December 2010. Data effective through October 2010. http://transition.fcc.gov/wcb/iatd/monitor.html Visited May 13, 2011.

Table 1 shows that the Florida PSC's proposal to limit support to $250 per month per line would not eliminate support for any customers in Wyoming, a very high-cost, very rural state. We, however, advocate proceeding cautiously because it is not yet known how much provision of broadband may cost. Before implementing a hard or fast rule like this, the FCC should examine the proposal thoroughly to ensure that the Florida PSC's recommendation will provide an outcome that is in accordance with the principles of universal service policy in § 254 of the Telecommunications Act of 1996.

While it supports proposed caps on the size of the fund at current levels, the Florida PSC believes the FCC should reduce the size of the fund where efficiencies derived from universal service reform allow. The Florida PSC says that several states, including Florida, shoulder "a disproportionate burden" of funding the program.

The principles of universal service found in § 254 reflect the business deal and promise of the Telecommunications Act of 1996. § 252 provides for local competition to the benefit primarily of urban markets, especially metropolitan business markets. Recognizing that the fruits of competition might not ripen in high-cost rural areas where a business case for investment is lacking, Congress wisely made a promise to America in § 254 that, while implicit legacy subsidies supporting universal service may be eroded by competition in urban and metropolitan business markets, reasonably comparable rates and service quality will continue to be supported ubiquitously for rural, high-cost consumers through a necessary, and sufficient federal fund.

Table 2 shows estimated monthly net dollar flow per capita between the states, accounting for all types of support, not just high-cost support, but including rural health care, low income, and educational telecommunications support programs.[7]

[7] Source for universal service data: Universal Service Monitoring Report, December 2010, CC Docket No. 98-202, (Data Received Through October 2010), Prepared by Federal and State Staff for the Federal-State Joint Board on Universal Service in CC Docket No. 96-45. Table 1.12. http://transition.fcc.gov/wcb/tapd/universal_service/ Visited May 13, 2011. Source for population data: Population Distribution and Change: 2000 to 2010, 2010 Census Briefs, Table 1, effective March 2011. http://www.census.gov/prod/cen2010/briefs/c2010br-01.pdf Visited May 17, 2011.

Table 2

Universal Service Net Dollar Flow Per Capita Per Month

1	Alaska	$ 26.39	29	Arizona	$ (0.08)
2	North Dakota	$ 10.64	30	Washington	$ (0.19)
3	South Dakota	$ 9.05	31	Tennessee	$ (0.24)
4	Mississippi	$ 7.15	32	North Carolina	$ (0.42)
5	Wyoming	$ 5.89	33	Utah	$ (0.49)
6	Montana	$ 5.35	34	California	$ (0.53)
7	Kansas	$ 5.35	35	Indiana	$ (0.55)
8	Nebraska	$ 3.99	36	Michigan	$ (0.56)
9	Oklahoma	$ 3.81	37	New York	$ (0.59)
10	Arkansas	$ 2.85	38	Colorado	$ (0.60)
11	New Mexico	$ 2.63	39	Ohio	$ (0.90)
12	Iowa	$ 2.05	40	Virginia	$ (0.95)
13	Louisiana	$ 1.79	41	Illinois	$ (1.00)
14	Hawaii	$ 1.48	42	Pennsylvania	$ (1.04)
15	Idaho	$ 1.19	43	Nevada	$ (1.12)
16	West Virginia	$ 0.97	44	Florida	$ (1.21)
17	Vermont	$ 0.96	45	Rhode Island	$ (1.23)
18	Puerto Rico	$ 0.96	46	New Hampshire	$ (1.56)
19	Kentucky	$ 0.83	47	Massachusetts	$ (1.57)
20	Wisconsin	$ 0.75	48	Connecticut	$ (1.67)
21	South Carolina	$ 0.63	49	New Jersey	$ (1.85)
22	Alabama	$ 0.63	50	Maryland	$ (2.14)
23	Minnesota	$ 0.56	51	Delaware	$ (2.38)
24	Maine	$ 0.56	52	Dist. of Columbia	$ (3.43)
25	Oregon	$ 0.21	53	American Samoa	
26	Texas	$ 0.00	54	Guam	
27	Missouri	$ (0.00)	55	Northern Mariana Is.	
28	Georgia	$ (0.04)	56	Virgin Islands	

The Florida PSC, New York PSC, and the New Jersey BPU argue their states pay disproportionate shares for universal service. As **Table 2** shows, there is a danger in this narrow view of universal service funding. Following this reasoning, there are seven other jurisdictions that could complain they pay a disproportionate share compared to Florida. For example, the District of Columbia actually receives no high-cost support, and pays $3.43 per person per month into universal service so that Florida and New Jersey can enjoy universal service. Based on the December 2010 Monitoring Report, Table 1.12, Florida is actually estimated to have received more high-cost support ($70,396,000) than Wyoming ($50,740,000). On net, each ratepayer in New Jersey pays 64¢ more for universal service than a Floridian, but New Jersey actually collected "only" $1,058,000 in high-cost universal service. Given that universal service is one of the most fundamental promises of the Telecommunications Act of 1996, we disagree with the notion that universal service net payments should govern whether a given state's customers receive sufficient support for reasonably comparable rates and service quality. All of the states fit somewhere on a continuum of payments and receipts, and Wyoming customers contribute their share to support federal universal service funding. Mathematically, the situation of each state is different, as some commenters are quick to point out. However, this is little more than a truism and does not demonstrate unfairness in universal service funding but merely recognizes the telecommunications markets in all states vary. To insist that it demonstrates unfairness is a distortion of the data that ignores the national importance of universal service and the positive externalities associated with a ubiquitous public network.

We agree with the New Jersey BPU that support could be limited to one provider in a geographic area, although it is not clear to us how that single provider will be chosen if the FCC does not employ reverse auctions. Since the WyPSC, like many small rural telephone companies, does not recommend reverse auctions, we believe that selecting a single provider in a geographic area poses problems with competition policy that the FCC needs to spend more time considering. We also find merit in the New Jersey BPU proposal to only provide funding in geographic areas where there is no private sector business case to provide broadband and high-quality voice-grade service.

We support the New York PSC's advice to avoid penalties for early adopter states. We acknowledge that the FCC has a very difficult task in making sure that early adopters are not penalized while simultaneously providing support for the ongoing provision, maintenance, and advancement of universal service. Many of our Wyoming rural telephone companies have been providing universal service as the carrier of last resort all along and will likely have to continue to do this for the foreseeable future, not just for broadband, but for voice as well. In fact, in some parts of the country, it appears as if the FCC's broadband plans will not benefit subscribers "at the end of the road" in high-cost rural areas. Therefore, sufficient care for early adopter conditions is imperative.

BIFURCATED FEDERAL AND STATE RESPONSIBILITIES/PARTNERSHIP

The WyPSC agrees with the Washington UTC that state commissions remain important partners in universal service. We also agree with the Massachusetts Department of Telecommunications and Cable's initial comment that, if the FCC forebears from ETC certification and designation, it must spend quite a bit more time that it has in fleshing out how that will work in the transition to broadband. We agree with the Michigan PSC that recipients of universal service support must continue to be designated as ETCs and the existing scheme requiring providers to undergo a review process as a condition of eligibility should continue.

We also agree with the Washington UTC that the FCC should adopt a broad view of the extent to which states have accomplished intrastate access charge reform.

CONCLUSION

In conclusion, we appreciate the opportunity to file these reply comments. Wyoming presents unique universal service challenges and we ask the FCC to carefully consider the matter to allow it to accomplish its goals without creating undue risk to consumers in extremely rural areas.

Respectfully submitted May 23, 2011.

PUBLIC SERVICE COMMISSION OF WYOMING

Alan B Minier

ALAN B. MINIER, Chairman

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